MINUTES OF THE
CAPITAL PLANNING ADVISORY BOARD

August 29, 1996

The second meeting of the Capital Planning Advisory Board (CPAB) in the 1996 calendar year was held on Thursday, August 29, 1996, at 10:00 a.m., in Room 327 of the Capitol. Representative Fred Nesler, Chairman, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Fred Nesler, Chairman; Bill Hintze, Vice-Chairman; Representative Lawrence Brandstetter; Susan Clary; James Codell; Gary Cox; Bonnie Howell; Paul Isaacs; Lou Karibo; Senator Denny Nunnelley; Laurel True; Judge Anthony Wilhoit.

Guests: Gary Cloyd, Workforce Development Cabinet; Shirley Rodgers and Chris Clark, Kentucky Information Resources Management Commission; Sherron Jackson, Council on Higher Education; M. L. Allen, University of Kentucky; Stuart Reagan, Teachers' Retirement System; Darrell Welch, Human Resources Cabinet; Commissioner Armond Russ and Jim Abbott, Department for Facilities Management; Don Mullis and Bart Hardin, Office of Financial Management and Economic Analysis; Allen Holt, Governor's Office for Policy and Management; Karen Crabtree and Charles Shirley, LRC.

LRC Staff: Pat Ingram, Mary Lynn Collins, Jonathan Downey.

Mr. True moved to approve the minutes of the Board's May 6, 1996 meeting, as distributed. Judge Wilhoit seconded the motion, which passed by voice vote.

Chairman Nesler stated that at the May meeting, staff presented a report on the 1996/98 Biennial Budget as it related to the Board's recommendations for various capital projects. He asked Pat Ingram, Staff Administrator, to update the Board on recent activity concerning the 1996/98 budget.

Ms. Ingram explained that the Executive Branch Budget provides for a General Fund Capital Construction and Technology Trust Fund Plan which authorizes the expenditure of General Fund Undesignated Fund Balances for Fiscal Year 1995-96. She stated that these balances are to be allocated in equal amounts to the EMPOWER KENTUCKY program and to a prioritized list of capital projects which totals about $103 million. When the budget was enacted there was already a known surplus that allowed the budget to include $38 million for each of these pools with other amounts to be determined at the end of Fiscal Year 1995-96. In July, Governor Patton appeared before the Interim Joint Committee on Appropriations and Revenue and reported that the balance was $223 million, which is enough to provide funding for all 27 capital construction projects on the prioritized listing and an equal amount of funding for EMPOWER KENTUCKY.

EMPOWER KENTUCKY projects have not yet been selected, but a process has been developed to determine how the money will be allocated. Ms. Ingram said that a Redesign Steering Committee, which has both Executive Branch and General Assembly members, will make recommendations about the allocation of those funds. The Budget Bill specified that the foremost criteria for project selection is to be demonstrable cost savings on a recurring basis through the employment of technology and training which would improve service delivery. The Redesign Steering Committee met in May and again on August 28. With the departure of Margaret Greene as Secretary of the Governor's Executive Cabinet, Cabinet Secretary Crit Luallen is now the Chairperson of that committee. A contract has been awarded to an outside consultant group to manage the EMPOWER KENTUCKY project and Ron Bingham is now the Director of that project; he is on loan from his position as Director of Site Operations for Lexmark. The initial timetable for EMPOWER KENTUCKY called for the projects that were to be funded to be identified by November 1. However, it will probably be mid December before those projects are selected and identified. Two items which were recommended by the Board in its <u>1994-2000 Statewide Capital Improvements Plan</u>, the 800 MHz digital trunked statewide radio and the Geographic Information Systems (GIS) statewide digital basemap, were taken off the list of possibilities because they do not meet the criteria of providing recurring cost savings. (Phase I of the GIS basemap is being funded by federal funds matched by state funds from the contingency account.)

Ms. Ingram stated that the 27 projects identified in Pool B will all be funded with the budget surplus. In summary, there were 14 parks projects, 9 higher education projects, 2 secure juvenile detention centers, and some additional funding for 2 previously authorized projects. Eighteen of those 27 projects had been recommended by the Board in its prioritized listing in the last plan, and 2 were recommended on the non-prioritized listing.

Ms. Ingram then stated that in enacting the Judicial Branch Budget, the General Assembly included language stating that construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts. In May, the Court Facilities Standards Committee adopted a resolution to implement that requirement. The projects to be reviewed by the National Center for State Courts are divided into two categories. The first group includes projects that will have the preliminary architectural plans reviewed. These are the smaller projects which were usually included in construction pools. The second group includes those that will have a master plan and requirements analysis done. These are the major projects, which include Fayette County, Hardin County, Jefferson County, Kenton County, and Warren County. There are a few projects which will not be involved in the National Center review because they involve ADA or HVAC renovations and do not include any square footage changes. Ms. Ingram then asked Mr. Isaacs if he would like to comment on the different levels of this review process.

Mr. Isaacs said the primary benefit the National Center brings to this is a planning process that involves all facets of the court system in the planning of a facility to meet today's needs and the needs of the future. It also brings some long term planning into the process so we do not have situations similar to one of the recently authorized projects which addressed the needs of a courthouse that was only 8 years old. The idea of getting the National Center and their expertise involved is to do some long-range planning to insure that court facilities are built so they can expand to meet the future needs of the courts and the citizens in that community. National Center staff are in the process of meeting with those people involved in the major projects and preparing their analysis, as well as reviewing the plans on the pool projects. In response to a question from Ms. Ingram, Mr. Isaacs said that the review focuses on building to meet the need in 14 years with the ability to expand to meet the need 20 years from now. These reviews also include space utilization standards which are both National Center and Kentucky standards.

Chairman Nesler said that in the May meeting, Mr. True said he had been told that the state of Alabama uses funds from its retirement system to construct buildings for the state. Staff was asked to check on what is done in Alabama and whether such an approach might be implemented in Kentucky. Chairman Nesler asked Ms. Ingram to report on her findings.

Ms. Ingram stated that she contacted the State of Alabama and spoke to the Chief Executive Officer of the Alabama Retirement System and with the Director of the Division of Space Management in the Alabama Finance Department. There are 5 office buildings in Montgomery that have been constructed by the retirement system. These buildings account for about 1.5 million square feet of space. The retirement system does not construct this space specifically for state government; it is available to be leased to anyone. However, the state does give preference to that space when agencies need to be located in leased space. The first preference is for space constructed by the state, with second preference being those buildings built by the retirement system. There is a provision in the leases with the retirement system that if space becomes available in a state constructed building, an agency may be moved to state owned space from retirement system space. However, agencies are to be moved from privately owned space first.

Ms. Ingram said that in Kentucky, both the Kentucky Employees Retirement System and the Teachers' Retirement System own the buildings in which their offices are located. These buildings are part of their investment portfolios. The Employees Retirement System purchased a building on which construction was nearly completed at the time of purchase. The Teachers' Retirement System constructed the building that they occupy. At the time these transactions took place, the Capital Projects and Bond Oversight Committee questioned whether this was allowed under the capital construction statutes. Both systems explained what they had done as being under their authority to make investments in real estate. The General Manager of the Employees Retirement System is not aware if there has been any discussion of that system undertaking any projects to construct office buildings in Frankfort.

Representative Brandstetter asked what the advantage was of taking retirement system funds and using them to fund state projects. Ms. Ingram replied that in Alabama the retirement system built these buildings as an investment. She stated that no analysis had been done relative to doing this in Kentucky. Mr. True commented that his interest in having staff look at this was that such an approach might give the retirement systems a good return on their investments and under a lease/purchase arrangement the state could eventually own more of its buildings rather than leasing so much. He said that he believed the state makes a mistake by not owning more of the buildings that it leases from private owners.

Representative Brandstetter said that he was concerned that this might put retirement system funds at risk. He asked Ms. Ingram if such a report might be the next step in the Board's examination of this idea. Ms. Ingram said that it would be up to the Board whether or not it would ask the retirement systems to do this kind of analysis. Ultimately, the systems are governed by Boards of Trustees who would make the final decisions on implementing such proposals. Representative Brandstetter asked if Kentucky has a building authority in place similar to the one in Alabama. He felt that the building authority could borrow the money from a retirement system or from a bank depending on which would have the best terms. Ms. Ingram said that in Alabama, the retirement system does not borrow the money, it constructs the building independent of state involvement and is able to lease it to the state or to private tenants.

Representative Brandstetter commented that the Board previously took issue with the universities for attempting to do something similar to this out of concern that the state would be liable for the loan funds. He asked if that would be the situation with the retirement systems. Chairman Nesler said he understands the Alabama Retirement System owns the property and leases it as an investment. In response to a question from Representative Brandstetter, Mr. Hintze stated that the General Assembly has jurisdiction over the retirement systems' funds and it has now conferred jurisdiction to itself over building projects that they occupy. It also has jurisdiction over their major equipment purchases. The retirement systems are not free-standing, independent entities. Even though they have special responsibilities and special authority, they are still appendages of state government. He also stated that the retirement systems would not need to borrow the money for the buildings and that they already routinely invest in real estate across the country through their own boards, subcommittees, and financial and other advisors. They are audited, but they basically report to their own boards on those decisions. The difference between Kentucky and Alabama is that Kentucky's State Property and Buildings Commission cannot borrow money without prior line-item legislative approval to do something specific in an amount specific, and then they typically go to the bond market. This Commission is directly responsible to the General Assembly.

Mr. Isaacs then asked if one of the Kentucky retirement systems would have to go through the budget process if it decided to build a building. Mr. Hintze replied that it would not have to do so if the building was for non-governmental purposes. Mr. Isaacs stated that the Employees Retirement System owns Perimeter Park and previously leased part of that building to the Department of Public Advocacy through an independent management company; the lease was not with the Retirement System.

Mr. Cox said he understood Mr. True's intention was to show that a retirement system could use some of its funds to construct an office building and that by agreement the state would lease that property with an option to buy it. This is a potential alternative method of financing a state facility; the retirement system would generate income on the investment and the state would gain the facility. This is different from what Alabama has done. Mr. True said that he would like to see a relationship between the retirement systems and state government whereby the systems would realize better returns on their investments and the state would become the property owner over a period of time.

Representative Brandstetter asked if one alternative would be to establish a building authority, allow them to own the buildings, and allow them to borrow money, of which one of those sources could be the retirement system. Judge Wilhoit said if you use retirement money you do not go through the bond process with all of the associated costs. Representative Brandstetter said it is an easy decision if the retirement system will lend money below the market with no up-front costs. However, if the retirement system is earning 8 or 10% on its investments and the state could get tax-free bonds at 5 1/2%, it might be more expensive to use retirement system money than to go to the bond market. Judge Wilhoit said he thought Mr. True had in mind that the state would not borrow the money and pay interest but rather would pay for the rent of the buildings instead of paying rent to independent landlords. Representative Brandstetter said buildings are not necessarily great returns on investments. He said that it would make sense to establish a building authority that would be able to borrow money from the most advantageous source with the eventual goal of having more state-owned buildings.

Mr. Codell said that he feels this is an avenue that should be explored and if this is the least expensive proposal it should be utilized; if it is not, the present system should be retained. Senator Nunnelley stated that, based on the condition of the state's parks, the state may not be very good at taking care of its properties; due to the amount of turnover in leased space, in the long run it may not be best for the state to invest too much money in building construction. Mr. Codell said the retirement fund could retain ownership and recover its building cost from lease payments. Ms. Clary stated that all the Board can do is to ask the retirement systems to examine this issue. Ms. Ingram agreed and said that she feels the retirement systems would be willing to explore this option. She also said that there are many items on the agenda concerning space management and acquisition which relate to this topic. Chairman Nesler encouraged members to continue bringing forth ideas such as this which would interest the Board. He also said that in his opinion, state government, which will always be in Frankfort, should look toward ownership instead of renting property.

Chairman Nesler said that in both the 1990-96 and 1992-98 statewide capital improvements plans, the Board made recommendations on state government space utilization, management, and acquisition which were enacted into statute by the 1992 and 1994 General Assemblies. He stated that since these statutes have now been in effect for 2 to 4 years, it would be a good time to receive an update on their implementation. He asked Ms. Ingram to briefly go over these recommendations for the benefit of those members who were not on the Board when they were first made.

Ms. Ingram said three recommendations dealing with state government space utilization, management and acquisition were included in the first two capital plans prepared by the Board. The first capital plan recommended some space management goals to be enacted into statute. The 1992 General Assembly did enact legislation that included the space management goals as part of the duties of the Department for Facilities Management. Those goals were in the general categories of: (1) insuring efficient utilization of state property through the establishment of space standards and monitoring compliance with those space standards; (2) establishing policy to insure effective planning for state facilities which would include developing a long-range plan for the Frankfort area, developing long-range plans for housing state agencies in the major metropolitan areas, encouraging agencies to expand their own long-range planning activities, and supporting long-range planning for statewide information technology infrastructure; and (3) permitting least-cost financing of state facilities. Ms. Ingram said since these were enacted, the Board has received a few updates about what has occurred particularly relating to space utilization and space standards. The development for the long-range plan for the Frankfort area is well under way and is expected to be concluded in the next few months.

Ms. Ingram further stated that in the 1992-98 Plan there were two recommendations. At that time the Board was concerned that the Division of Real Properties, which is responsible for providing space for state agencies, only knows how space is being used when it is first requested by the agency. The Board's recommendation, as enacted into statute by the 1994 General Assembly, requires that an agency must report each year if 10% or more of the space has been reconfigured, if there was a change in the use of 10% or more of the space, or if the number of employees occupying the space changed by 10% or more. This provision is set to expire in 1998. The Board also recommended that legislation be enacted to give state agencies additional space acquisition options and House Bill 88, enacted in 1994, stated that the Finance and Administration Cabinet may include in the lease an option to purchase the leased property or a lease-purchase of the leased property.

Chairman Nesler introduced Commissioner Armond Russ and Mr. Jim Abbott of the Department for Facilities Management to update the Board on the status of implementing those recommendations.

Commissioner Russ stated that state government occupies over 6.3 million square feet of space in Franklin County. The state is by far the largest user of office and multi-purpose space in the county. The state is also the largest user of utilities in the county. The Department of Facilities Management was directed by statute to construct a set of standards for state facilities and to establish an inventory of where the facilities are and which agencies occupy them. The Department also was directed to contact the agencies to discuss their current and projected needs and to develop a model by which recommendations could be made concerning how to proceed in the future.

Commissioner Russ stated that standards have been developed for space utilization in state government; they are applicable to all agencies throughout the state. This phase of the project is complete. The next step was to get accurate information on the space we have and how it has been modified and is allocated today. Commissioner Russ stated that many of the design plans for the older buildings in use by state government are on paper which is disintegrating and perhaps are not accurate. Such information has been placed on computer so that the Department now knows the location and size of all facilities used by the state. The next phase will be working with the agencies to understand their current needs and to forecast their future needs. The final phase of the project will be the construction of a model to be used for recommendations as to how to proceed in the future. Such recommendations are expected to be ready at the end of the year.

Commissioner Russ then introduced Mr. Jim Abbott, Director of the Division of Real Properties, who he said was doing an oustanding job of handling this project. Mr. Abbott said getting to the point of making recommendations is a 4 phase process. The first phase of the project was to develop a set of standards for space utilization. A survey packet was developed and sent to other states as well as the federal government concerning their methods of dealing with space utilization. Upon receipt of that information, the Department developed the new space standards. The factors examined included electric needs, HVAC, and ADA requirements. Mr. Abbott said the expanded use of computer equipment has greatly impacted space utilization. Smoking rooms, "sick building syndrome," and stronger handicapped access requirements have also impacted the use of space. Since the 1970's, the allocation of space per person has increased from 190 square feet to 250 square feet. This phase of the project is 100% complete.

The second phase was the development of information to help administer state property; previously such information was very deficient. The Department purchased CAD (computer aided design) equipment and trained staff in its use so they could measure state occupied space in Franklin County. The Department can now provide information on the work area of any state employee in the county. This phase is 95% completed. One of the benefits of this phase is that this study has become a management tool. Agency heads can obtain more detailed information on their agency's space. This information has also been used in the development of a process for constructing space in Finance-administered buildings. Finally, it has been of benefit to know the exact amount of space used by state government; precise figures had not been available in the past.

The next phase has been to survey the agencies. A questionnaire was developed and sent to the agencies to obtain information concerning current space utilization. This phase is 75% complete. The remaining 25% is the field audit of information received from various agencies.

The final phase of the study is to do the survey report. This phase is approximately 20% complete. With help from the Long Term Policy Research Center and the Office of Financial Management and Economic Analysis, the handout given to members today reflects the types of information that will be part of the final report - for example, an economic comparison of lease vs. build vs. purchase of property.

Chairman Nesler asked what is being done to consolidate more agencies and which agencies are most scattered throughout the county. Mr. Abbott replied that Natural Resources is the most spread out. The Revenue Cabinet had been using 9 locations but will soon be using only 2 locations. The Department has attempted to look at the placement of agencies where they are located at least in the same complex if not the same building. One example is the Department of Environmental Protection, which is housed in 5 separate buildings in the Fort Boone Plaza. Similar examples are the Public Service Commission and the Labor Cabinet.

Commissioner Russ commented that there is turbulence created when agencies are reorganized which creates an immediate need; the Department must find the closest fit that is on the market at that time. This sometimes involves the use of multiple buildings because a single suitable building is not available.

In response to a question by Representative Brandstetter, Mr. Abbott said that a map has been developed which shows the location of state buildings and agencies. Representative Brandstetter asked about the threshold at which the dispersion of an agency affects public service and said that is a factor relative to priorities and the use of capital dollars. He also asked what the policy should be concerning the percent of space that is leased compared to space owned by the state - the percent of leased space has increased from the teens in the 1980's to the twenties now. Representative Brandstetter asked if the state did build more buildings, is there a plan in place showing where they might be constructed. Commissioner Russ stated that there are two sites that have land, utilities, and the roads to accomodate large state office buildings. One of these is on the East-West Connector where the new Central

Lab is now located. This site could support a building of 750,000 square feet. There is also space available near the Libraries and Archives Building.

Mr. Cox complimented the Division of Real Properties for its professionalism in the process of space utilization and acquisition. He said it appears to him that space out in the state is often of a lesser quality than space in Franklin County. He asked if this is correct and also what consideration is given to agencies that serve the public (for example, consolidation of activities at a single location). Mr. Abbott said that agencies must come to Facilities Management and identify a space related problem and that the Division of Real Properties will visit the site. At that time, they will examine the economics of the possible solution but the agency may be unable to pursue the project due to its cost. Regarding the location of agency offices, Mr. Abbott said many people that visit state agencies do so in rural areas and do not have to come to Frankfort. Most of the organizations out in the state are consolidated except for the Cabinet for Human Resources.

Commissioner Russ stated that much of the leased property is built for commercial needs. In general, the type of space that the state leases is of a lesser quality than the space that the state builds. It costs more to build a state building than to purchase an existing building because the quality of the building is greater. State buildings are built with a longer life expectancy because it costs so much to renovate a structure or to get major maintenance approved. This also creates a presence so that people know it is a state building as opposed to being located in a shopping center.

Mr. Hintze noted that much effort had gone into developing the current information and asked if there was a means of regularly updating it to stay current as uses change. Mr. Abbott replied that duplicate systems are being put in place in 3 divisions of the Department for Facilities Management - Engineering, Physical Plant, and Real Property. When any work activity takes place in a leased or owned building, the work orders that are submitted electronically will be monitored and as that work is completed, the CAD drawings will be updated to reflect any changes made. Mr. Hintze also asked if there have been any retrospective studies of experience over the past 10 - 20 years to see how much has been spent on leases compared to what the cost would have been to construct a building. Mr. Abbott said that the Division of Real Properties is looking at the issue, but a study has not been initiated at this time.

Chairman Nesler said the next items on the agenda concerned the upcoming planning process and that staff needed some direction on these items. He asked Ms. Ingram to explain each of them for the Board.

Ms. Ingram said the guidelines for the next planning process are being developed and that it has been staff's practice to bring some of the major items to the Board for their approval. The complete guidelines will be brought before the Board at a later date. Ms. Ingram gave a brief overview of the contents of the planning guidelines for the benefit of the new members of the Board.

The first decision item concerned the update of the administrative regulations of CPAB. Legislation proposed during the last session of the General Assembly was intended to make the administrative regulations unnecessary; however, that legislation did not pass. The major proposed changes in the regulations reflect the roles of the Council of Higher Education and the Kentucky Information Resources Management Commission (KIRM). The proposed changes will allow the universities to submit their plans directly to the Board and the Council on Higher Education would make recommendations, only, rather than submitting a comprehensive systemwide plan. The changes also call for KIRM to prepare a prioritized list of recommended projects for the Board. Mr. Codell moved to proceed with amending 1KAR 6:020 to reflect the proposed changes. Mr. Karibo seconded the motion, which passed by voice vote.

Relative to the next item, Ms. Ingram stated that there are two dates specified by statute for the planning process. The first is April 15, the date agencies and universities must submit their plans, and November 1, the date that CPAB must transmit its statewide plan. Staff presented the Board with a proposed timetable for the 1996 - 2002 planning process which is unchanged from previous timetables other than to reflect a later submission date for university plans as called for in the proposed administrative regulation amendment. Ms. Howell moved that the Board accept the timetable. Judge Wilhoit seconded the motion, which passed by voice vote.

Concerning the third item, Ms. Ingram stated that in the past, equipment items were submitted for the upcoming 2 biennium. Staff is proposing that equipment items only be submitted for the first biennium of the planning period because rapidly changing technology makes it difficult to forecast equipment needs very far into the future. The Council on Higher Education and KIRM agree with this change. Mr. Hintze moved that this change be approved. Mr. Karibo seconded the motion, which passed by voice vote.

The next decision item concerned Judicial Branch projects. These projects are different from other projects because they are financed through bonds issued by local governments rather than the state. Local governments are then reimbursed by the Use Allowance payments from the Administrative Office of the Courts. Due to the unique funding mechanism, it is difficult for the Judicial Branch to fit their projects into the forms used by other state agencies. Staff is proposing that necessary changes to address this be incorporated into the guidelines for the 1996-2002 planning process. Mr. Isaacs moved to approve these changes. Representative Brandstetter seconded the motion, which passed by voice vote.

The fifth decision item concerned the "information technology assessment" data element. Ms. Ingram said that in the 1992-98 statewide plan, the Board recommended that an "information technology assessment" be required as a component of each capital construction project that was submitted; and it was included during the last planning process. Staff transmitted all of the projects that had this assessment included to KIRM, but it was found that they contained very little useful information. Staff recommends that the information technology assessment narrative be eliminated and that a "telecommunications and network infrastructure" cost element be added to the project budget. Mr. Codell moved that these changes take place. Representative Brandstetter seconded the motion, which passed by voice vote.

Concerning the next decision item, Ms. Ingram said that under previous planning guidelines, agencies have been required to submit information on the status of projects authorized in the biennial budget in effect or reported to the Capital Projects and Bond Oversight Committee in the current biennium. The status information is not particularly useful because at the time the plan is prepared agencies are only about 9 months into the biennium. Staff is proposing to require the status information for any project that has an active authorization in the current biennium. Mr. Codell moved that these changes be adopted. Representative Brandstetter seconded the motion, which passed by voice vote.

The final decision item concerned the reporting of leases. Statute requires that leases for properties valued at $200,000 or more be included in the capital plans. In the first two plans, these were recorded on the same forms as construction projects. In the last plan, a separate lease form was created that was intended primarily for planned leases. Staff is proposing that this format be revised and simplified to address some remaining concerns about the submission of lease data. Mr. Codell moved for approval of the new format. Ms. Clary seconded the motion, which passed by voice vote.

Ms. Ingram stated that she had spoken to some of the agencies and universities to obtain their suggestions concerning this planning process. Additionally, the Governor's Office for Policy and Management has made personnel available to do the software development based on the planning instructions, and the program will now be in a Windows environment. Staff is also planning to use electronic mail and the Internet to communicate with many of the universities and agencies throughout the state during the 1996-2002 planning process.

Chairman Nesler said that the timetable that the Board approved calls for a November meeting to approve the guidelines for the 1996-2002 agency capital plans. He proposed that the Board meet on November 13 at 10:00 a.m. The agenda will also address maintenance of state facilities and include a report on EMPOWER KENTUCKY.

Ms. Clary commented that one of the goals of this Board is to initiate actions to enable the state to utilize innovative methods to lease-purchase and/or construct facilities. She moved that the Board request that the retirement systems examine the Alabama plan and whether such an approach would be beneficial to this state. Judge Wilhoit seconded the motion, which passed by voice vote.

With no further business before the Board, the meeting was adjourned at 12:00 p.m.